

Application No.: 10/627149

Case No.: 57983US004

Remarks

Favorable consideration of this application in the light of the election and the preliminary amendment is respectfully requested. Claims 1–15 are currently pending. Claims 16–19 are new.

Restriction under 35 USC § 121

Claims 1–15 were restricted under 35 USC § 121 as follows:

- I. Claims 1–14 are said to be drawn to an aqueous microemulsion and its process of making, classified in Class 526, subclass 242;
- II. Claims 15 are said to be drawn to a cured fluoropolymer comprising repeating units from a liquid fluorinated with a cure site, classified in Class 525, subclass 50+.

The Examiner asserted that the restriction is proper because the inventions of groups I and II are purportedly related as mutually exclusive species in an intermediate-final product relationship.

Election

The Examiner indicated that he did not initiate a teleconference regarding this restriction requirement, "due to complexity." The Applicants courteously invite the Examiner to initiate a teleconference with Applicants' representative in all cases regarding a restriction requirement, even those that the Examiner finds complex.

In response to the restriction requirement, Applicants elect Group I, with traverse. Group I, covering claims 1–14, is drawn to a microemulsion, a microemulsion process, a method of making a fluoropolymer utilizing the microemulsion, a method of making a curable fluoroelastomer composition from the fluoropolymer, and process for making a cured fluoroelastomer from the curable fluoroelastomer composition. Applicants further assert that new claims 16–19, drawn to a fluoropolymer made using the microemulsion of claim 1 with the method of claim 7, should be part of Group I for the reasons set forth below regarding the preliminary amendment.

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Reconsideration and withdrawal or modification of the restriction requirement is respectfully requested. In particular, Applicants request a modification of the restriction requirement to reflect a proper understanding of the interrelationship of the claimed invention(s).

Furthermore, Applicants submit that the Groups I and II claims, as well as the newly added claims 16-19, are so interrelated that a search of one group of claims will reveal art related to the others. Moreover, the classification of Groups I and II claims in different classes and subclasses is not sufficient grounds to require restriction.

Were restriction to be effected between the claims in Groups I and II, a separate examination of the claims would require substantial duplication of work on the part of the U.S. Patent and Trademark Office. Even though some additional consideration would be necessary, the scope of analysis of novelty of all the claims would have to be as rigorous as when only the claims of Group I were being considered by themselves.

Clearly, this duplication of effort would not be warranted where these claims of different categories are so interrelated. Further, Applicants submit that restriction between the claims in Groups I and II would place an undue burden on the Applicants by requiring payment of a separate filing fee for examination of the nonelected claims, as well as the added costs associated with prosecuting multiple applications and maintaining multiple patents.

Preliminary Amendment

Applicants request consideration of new claims 16-19, drawn to a fluoropolymer produced from the microemulsion of claim 1. Applicants respectfully assert that the new claims should be grouped with elected Group I due to the dependency upon the microemulsion of claim 1 and due to the inclusion in Group I of method claims 7-11, drawn to a process for making a fluoropolymer.

New claims 16-19 find support throughout the original specification as filed, for instance, page 1, lines 13-14; page 3, lines 24-29; page 8, lines 3-13; page 9, line 29-page 10, line 10; generally page 10, line 29-page 16, line 24; page 22, lines 5-6 and lines 16-17; page 23, line 13. Therefore, Applicants submit that no new matter is added by new claims 16-19.

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Applicants have elected Group I, covering claims 1-14. Applicants also request grouping of new claims 16-19 with elected Group I. Continued prosecution of this application is respectfully requested.

It is believed that no fee is due; however, in the event a fee is required, please charge the fee to Deposit Account No. 13-3723.

Should the Examiner wish to discuss any aspect of this application, applicants' attorney suggests a telephone interview in order to expedite the prosecution of the application.

Respectfully submitted,

September 16, 2004

Date

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